

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

MAY 7, 2008

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **May 7, 2008** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

12 present, 0 absent

PRAYER

Commissioners were led in prayer by Commissioner Fay.

APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF APRIL 16, 2008 AND THE SPECIAL MEETING OF APRIL 28, 2008

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Minutes of the Regular Meeting of April 16, 2008 and the Special Meeting of April 28, 2008.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

None

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb informed the Council that there would be an NRD Meeting next Tuesday at the War Bonnet Inn. Everyone is welcome.

At the last NRD meeting the proposal that BSB had put together did not prevail. The next step will be bringing that to the Trustee Council and then to the Governor.

He advised that the resolution that was passed on Mariah's Challenge will be presented in the Rotunda on Monday at 10 AM.

He said he met with Brendan McDonough to see what they would like to have done from a public works standpoint for the National Folk Festival. We have already started working on them.

There was a meeting with representatives of the Chafin-Furhlander project, Karen Byrnes and Jim Smitham at 5PM today about the feasibility study.

AT THIS POINT CHIEF EXECUTIVE BABB MOVED SECTION VI – COMMUNICATIONS TO BE READ AND ACTED UPON TO THIS PART OF THE AGENDA.

SECTION VI COMMUNICATIONS TO BE READ AND ACTED UPON

1. 08-269 Tim Clark, Personnel Director, requesting Fox Lawson Classification and Compensation Study be placed on 5//7/08 Agenda to be read and acted upon.

AND

2. 08-273 Oversight Committee for Fox Lawson Classification study be placed on 5/7/08 agenda to be read and acted upon
Both of these communications are being held in COW.

Tim Clark, Personnel Director came forth and explained he has worked in that position since October of 1978. Prior to that time he was employed by the former city of Butte and former county of Silver Bow directly working in grants and also dealing with employee related equal employment opportunity issues. He then gave a power point presentation.

Jeff Amerman, Finance and Budget Director, talked about what it will cost. He answered questions of the commissioners during his presentation.

It was moved by Commissioner Shaw and seconded by Commissioner Coleman to approve and adopt the Fox Lawson Study and its recommendations and also to adopt and approve the related pay philosophy and place on file. The motion carried with a unanimous verbal vote. One nay vote was cast by Commissioner Foley.

It was then moved by Commissioner Shaw, seconded by Commissioner Fay and carried with a unanimous verbal vote to place Communication No. 08-273 on file.

The Council then adjourned for a 3 minute recess. They reconvened with a roll call vote of 11 present and 1 absent. Commissioner Mulcahy had left the chambers.

3. 08-334 Michelene Boysza, Vice President Highland View Golf Club, requesting time on the agenda to discuss funding for a new or enlarged clubhouse for Highland View Golf Club.

Michelene Boysza, Vice President of the Highland View Golf Club, explained to the commissioners their need for something to be done with the present clubhouse at the Golf course. Commissioner Frasz said that the facilities were not county owned or city owned. We will have to find ways to get to that ultimate goal.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to place Communication No. 08-334 on file.

4. 08-342 Bob LeCoure, Club Boxing, Inc., requesting permission to hold a free boxing event during Evel Knievel Days 2008 at Emma Park, 7/24/08 from 8 PM till 10PM.

Commissioner O’Leary said he put this communication on to be read and acted upon because the letter contained no mention of any insurance. Chief County Attorney Eileen Joyce agreed with Mr. O’Leary that it was a good idea to hold this communication in Committee of the Whole.

Commissioner O’Leary moved to hold this communication in Committee of the Whole. The motion was seconded by Commissioner and carried with unanimous verbal vote.

NOW BACK TO THE BEGINNING SECTION.

SECTION I

PRESENTATION

Ed Randall, Community Enrichment Coordinator, requesting time on the 5/7/08 agenda to present a Community Enrichment Program presentation outlining work Completed in Butte-Silver Bow for years 2006-2008. (**Communication No. 08-262 being held in Committee of the Whole**)

Ed Randall, Community Enrichment Coordinator, showed a power point presentation. He said they have moved 590 junk vehicles off the Butte-Silver Bow roads. They have had 1850 complaints and we have demolished 12 structures and we have had owners demo 4 others. We try to work with people. The Alley Rally has been a huge success.

SECTION II

PUBLIC HEARING

FOR THE PURPOSE OF OBTAINING PUBLIC COMMENTS REGARDING TWO PROPOSED APPLICATIONS TO THE MONTANA DEPARTMENT OF COMMERCE'S COMMUNITY DEVELOPMENT BLOCK GRANT ECONOMIC DEVELOPMENT (CDBG-ED) PROGRAM. ONE APPLICATION IS FOR THE PROPOSED POLY SILICON RECYCLING PLANT (SiPro) AND THE OTHER IS FOR THE WIND TURBINE MANUFACTURING PLANT (CHAFIN-FUHLANDER). (Communication No. 08-312) **Proof of publication was noted and placed on file.**

Karen Byrnes, Director of the Community Development Department, came to the microphone and said they would be applying for two different grant funds for two different projects – one being the SiPro Plant and one being the Wind Turbine proposed plant, both existing in the TIFID. Andy Zdinak, Butte Local Development Department came and told about the SiPro Plant. They plan to employ 24 workers to start.

Chief Executive Babb opened the public hearing at 9:45 PM and called for any proponents. The following came forth.

Jim Kambich, 2835 White Blvd. President and CEO of Merdi

Jim Smitham, Executive Director BLDC

There being other proponents he then called for any opponents. On the third and final call there being none he called the public hearing closed at 9:47 PM.

SECTION III

PUBLIC HEARING

FOR THE PURPOSE OF OBTAINING PUBLIC COMMENTS REGARDING TWO PROPOSED APPLICATIONS TO THE MONTANA DEPARTMENT OF COMMERCE'S COMMUNITY DEVELOPMENT BLOCK GRANT ECONOMIC DEVELOPMENT (CDBG-ED) PROGRAM. ONE APPLICATION IS FOR THE PROPOSED POLY SILICON RECYCLING PLANT (SiPro) AND THE OTHER IS FOR THE WIND TURBINE MANUFACTURING PLANT (CHAFIN-FUHLANDER). (Communication No. 08-313) **Proof of publication was noted and placed on file.**

Karen Byrnes, Director of Community Development Department, said this is the same process we just had with the previous public hearing. This is for the Wind Turbine Manufacturing Plant (Chafin-Fuhrlander).

Jim Smitham, Executive Director BLDC, explained that Chafin-Fuhrlander will be manufacturing land wind turbines. It is expected to employ between 150 and 200 people of all skill ranges.

Chief Executive Babb then opened the public hearing at 9:50 PM and called for any proponents. The following came forward.

Tom Swenson, 125 Bank Street, Missoula MT.

Fraser McLeay, 370 Mountain Springs Road, Stevensville, MT

There being no other proponents, he then called for opponents. On the third and final call there being none, he closed the public hearing at 9:52 PM.

SECTION IV INVITATION FOR BIDS

SEALED BIDS FOR THE DEMOLITION, REMOVAL AND DISPOSAL OF DETERIORATED SIDEWALKS AND FURNISHING, PLACING AND FINISHING OF NEW CONCRETE SIDEWALKS AND CURBS AT VARIOUS LOCATIONS WITHIN BUTTE-SILVER BOW. (Communication No. 08-314)
Proof of publication was noted and placed on file.

John VanDaveer, Director of Public Works Department, said they received one proposal from LeProwse Construction. The amount of the bid was \$66,634.00 He recommended the bid be referred to the Public Works Department for evaluation.

Commissioner O’Leary moved to refer the bid to the Public Works Department for review and report back. The motion was seconded by Commissioner Lee and carried with a unanimous verbal vote.

SECTION V CONSENT AGENDA

- A. 1. COMMITTEE OF THE WHOLE MEETING REPORT
- 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
- 3. JUDICIARY COMMITTEE MEETING REPORT
- 4. PUBLIC WORKS COMMITTEE MEETING REPORT

B. PETITIONS

- 1. 08-6 John Harrington, Building Official, on behalf of Triple “S” Building Center, Inc., requesting to close and vacate a portion Of Iowa Avenue between Blocks 32 and 34 of the Clarks Addition. **Recommendation: refer to Public Works Committee.**
- 2. 08-7 John Harrington, Building Official, on behalf of Galena Street LLC to close and vacate a portion of undeveloped E. Galena Street and alley within lots on Yellow Jack Lode, Block 3 and portion of Ohio Avenue in Kings Addition #2, Block 7. **Recommendation: Refer to Public Works Committee.**

3. 08-8 John Harrington, Building Official, on behalf of Jimmy Cecil, LLC to close and vacate a portion of Eagle Street and two alleys within Blocks 15 & 20 in the Northern Pacific Addition.
Recommendation: refer to Public Works Committee.

C. COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda. Chief Executive Babb called for any segregations or “friendly amendments”. Commissioner O’Leary made a “friendly amendment” on Item No. 35, Communication No. 08-309 from Karen Byrnes. The title is wrong on the agenda. It should read” requesting a public hearing be scheduled for 5/14/08 to solicit public comment on proposals submitted for the redevelopment of 715 Utah Avenue (Bud’s Bar) The recommendation was to schedule the public hearing for 5/14/08 and hold in Committee of the Whole. Under segregations, he segregated Section II of the Committee of the Whole Report and Item No. 4, Communication No. 08-278. Commissioner Moodry segregated Item No. 64, Communication No. 08-340

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, 1 through 4, Section B, 1 through 3 and Section C, Items 1 through 72.

Under segregation of Section II, Public Hearing, Commissioner O’Leary noted that at last week when the public hearing was held the county had been in receipt of a couple of letters which were supposed to be presented and read at that public hearing and inadvertently never made it to the chambers. They are two letters opposing and if it suits the body and its legal these people would like to have these read into the record. Chief Deputy Eileen Joyce said she believed that once the public hearing is closed you cannot open it again. Commissioner said he would have the letters placed in the Public Works packet for their meeting next week.

Commissioner Moodry said he also received two phone calls of persons who were not able to attend the public hearing who were opposed to the street closure and said he would make that known in the Public Works Meeting next week also.

Segregation of Communication No. 08-278 from Paul Babb

Paul Babb, Chief Executive, requesting authorization to sign request for military aerial support for a military flyover for Evel Knievel Days 2008.
Recommendation: concur and place on file

Commissioner O'Leary said that he had segregated this communication because he was not comfortable with the recommendation to concur and place on file because of the fuel crisis that this country is in today. The flyover of these jets for a crowd pleasure and the amount of fuel that is spent for 5 seconds to entertain the Evel Knievel crowd – I can't in good conscience support that.

Commissioner Coleman spoke in favor of the communication and moved to approve this communication to allow the Chief Executive to sign the request and place on file. The motion was seconded by Commissioner Fay. On the question, Commissioner Sheehy said it is not against the Navy or the Armed Services but he agrees it is necessary to conserve energy. A roll call vote was taken with 5 yeas and 6 nays. Voting nay were Commissioners Shaw, Sheehy, O'Leary, Foley, Lee and Fay.

Segregation of Communication No. 08-340 from Paul Babb

Paul Babb, Chief Executive, regarding recommendation from Tax Abatement Review Committee for Council to approve the tax abatement request by UDAP Industries, Inc. **Recommendation: concur and place on file.**

Commissioner Moodry said if we are to provide an established manufacturing firm from a neighboring city with a tax abatement, I view that as somewhat of an insult to the established businesses of that size that we already have in BSB. Secondly, I believe that tax abatement on Harrison Avenue is not good policy. Harrison Avenue is our main business thoroughfare. It's the most expensive commercial property in Butte-Silver Bow. It's going to be utilized. I can't see abating the taxing on that piece of property.

Commissioner Moodry then moved that Communication No. 08-340 be denied and placed on file. The motion was seconded by Commissioner Sheehy and a roll call vote of 5 yeas and 5 nays. It was noted that Commissioner Coleman had left the chambers. Commissioner Frasz said he voted the wrong way. Commissioner O'Leary called for a point of order and said this is a legal vote. Chief Executive Babb said he would vote nay and called for another motion. Commissioner O'Leary moved that we concur and place on file with the recommendation to concur and place on file.. Commissioner Lee seconded the motion and a roll call vote of 5 yeas and 5 nays was taken. Chief Executive Babb voted yea to break the tie. Voting nay were Commissioners Sheehy, Moodry, Sorich, Foley and Granger

SECTION VII

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

1. COUNCIL RESOLUTION NO. 08-26

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS A PARCEL OF GROUND IN THE RAVIN ADDITION, BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. COUNCIL RESOLUTION NO. 08-28

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE HOMESTAKE MEADOWS PHASE II MAJOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 08-31

A RESOLUTION RELATING TO \$7,500,000 GENERAL OBLIGATION BONDS, SERIES 2008; AUTHORIZING THE ISSUANCE AND CALLING FOR PUBLIC SALE THEREOF.

4. COUNCIL RESOLUTION NO. 08-32

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW COMMUNITY DEVELOPMENT DEPARTMENT FROM THE MONTANA DEPARTMENT OF COMMERCE TO BE EXPENDED IN THE COMMUNITY DEVELOPMENT FUND FOR THE PURPOSE OF INFRASTRUCTURE IMPROVEMENTS TO THE BUTTE EMERGENCY FOOD BANK BUILDING AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION VIII

ORDINANCES AND RESOLUTIONS – SUSPENSION OF THE RULES FOR FINAL PASSAGE

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent for suspension of the rules for the purpose of passing Resolutions No. 08-27, 09-33 and 08-34 by waiving sub-section 7 of Rule XXXVI of the Rules and Order of Business of the Council of Commissioners, thereby having them considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 08-27

A RESOLUTION RELATING TO U.S. FOREIGN-TRADE ZONE WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, AUTHORIZING THE FILING OF A FOREIGN-TRADE ZONE APPLICATION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-27 on final reading having been deemed fully read at length.

2. COUNCIL RESOLUTION NO. 08-33

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE BUTTE-SILVER BOW ARCHIVES FUND FROM THE CASH RESERVES OF THE METRO REPLACEMENT AND DEPRECIATION FOR THE PURPOSE OF PAYING EXPENSES ASSOCIATED WITH THE BUTTE-SILVER BOW ARCHIVES RENOVATION AND CONSTRUCTION PROJECT AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-33 on final passage and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 08-34

A RESOLUTION AMENDING THE BUDGET DURING THE FISCAL YEAR AFTER CONDUCTING A PUBLIC HEARING AT A REGULARLY SCHEDULED MEETING OF THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 7-6-4006, MCA; APPROPRIATING UNANTICIPATED REVENUE TO THE OFFICE OF THE CLERK AND RECORDER, RECORDS PRESERVATION BUDGET, FROM THE CASH RESERVES OF THE GENERAL FUND FOR THE PURPOSE OF

REPLACING FUNDS USED TO PAY SEVERANCE BENEFITS FOR A RETIRED EMPLOYEE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 08-34 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 10:15 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER